



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 349
[2015 Assembly Bill 615]

**Service of Restraining Orders and
Injunctions**

BACKGROUND

An individual who is, or who acts on behalf of, a victim of domestic abuse, child abuse, harassment, or individuals at risk (petitioner) may obtain from a court a temporary restraining order against the person who has committed an act of abuse, harassment, or makes a threat to do so (respondent). The restraining order bars the respondent from contacting the petitioner and requires the respondent to stay away from the petitioner's residence and other places temporarily occupied by the petitioner until a court conducts a hearing to determine whether the restraining order should be incorporated into a longer lasting injunction.

If the court determines that the respondent has engaged in, or may engage in, acts of abuse, harassment, or threats against the petitioner, the court may issue an injunction. An injunction may stay in effect for up to four years and bars the respondent from contacting the petitioner, requires the respondent to stay away from the petitioner's residence, and may require the respondent to stay away from other locations temporarily occupied by the petitioner.

If a court issues a restraining order or injunction, or enters another order relating to a restraining order or injunction, upon the petitioner's request, the court must order a sheriff to accompany the petitioner and assist in placing him or her in physical possession of his or her residence or to otherwise assist in executing or serving the temporary restraining order or injunction. The sheriff may not collect a fee for service of process from a petitioner for serving the petitioner with a petition for any of the following: (1) a domestic abuse restraining order and injunction; (2) a child abuse restraining order and injunction; or (3) a restraining order and injunction for an individual at risk. Instead, the fee must be collected from the respondent. However, in some petitions requesting a harassment restraining order and injunction, a fee for service of process, and attempts at service, may be collected from the petitioner (i.e., cases involving stalking).

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

2015 WISCONSIN ACT 349

Under **2015 Wisconsin Act 349** (“the Act”), if a court issues a restraining order or injunction, or enters another order relating to a restraining order or injunction, the clerk of circuit court must forward a copy of the order or injunction to the sheriff and the sheriff must assist the petitioner in executing or serving the temporary restraining order, injunction, or other related document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.

If the petitioner elects service by the sheriff, under **the Act**, the clerk of circuit court must: (1) provide a form supplied by the sheriff to the petitioner that allows the petitioner to provide information about the respondent that may be useful to the sheriff; (2) forward the completed form to the sheriff; and (3) maintain the form provided in a confidential manner. **The Act** authorizes both a law enforcement agency and a clerk of circuit court to use electronic transmission to facilitate the exchange of documents related to the temporary restraining order, injunction, or other related document or notice. However, any person who uses electronic transmission must ensure that the electronic transmission does not allow unauthorized disclosure of the documents transmitted.

The Act also authorizes a sheriff who executes or serves, or who assists a petitioner in executing or serving, a temporary restraining order, injunction, or other related document or notice, to use the Wisconsin Statewide Victim Notification service, or another service notification system administered by the Department of Corrections that enables the petitioner to receive an automated notification of the service. **The Act** requires the sheriff for a county that uses the notification system to enter each order for the service into the system as soon as practicable so that the petitioner receives timely notification of the service. Also, the clerk for the circuit court for a county that uses the notification system must, at the time a petition is filed, make available to the petitioner information on how to gain access to the system.

Lastly, **the Act** clarifies that, with respect to a petition for a harassment restraining order or injunction, if the petitioner is required to pay a service fee to the sheriff, the petitioner must pay the fee directly to the sheriff.

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